

June 25, 2014



Talbot County Planning Commission
Final Decision Summary

Wednesday, February 5, 2014 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes
William Boicourt
Michael Sullivan
Paul Spies
Jack Fischer

Staff:

Sandy Coyman, Planning Officer
Mary Kay Verdery, Assistant Planning Officer
Brett Ewing, Planner I
Elisa Deflaux, Environmental Planner
Mike Mertaugh, Assistant County Engineer
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Hughes called the meeting to order at 9:00 a.m.

2. Decision Summary Review—January 2, 2014—The Commission noted the following corrections to the draft decision summary:

- a. Line 87, change last sentence to read: “As an accessory to a residential use such use would require major site plan approval by the Planning Commission and some of its bulk requirements might be granted variances.”

Commissioner Boicourt moved to approve the draft Planning Commission Decision Summary for January 2, 2014, as amended; Commissioner Sullivan seconded the motion. The motion carried unanimously.

3. Old Business—None.

4. New Business

- a. Gary Brent—1101 S. Talbot Street, St. Michaels, MD 21663, (map 32, grid 10, parcel 105, Lot 2A, zoned General Commercial).

Commissioner Hughes advised that this project had been rescheduled by the applicant to next month’s meeting.

- b. Executive Transportation Services, Inc.— This request for interpretation of whether a taxi service would be considered a general, services use in the Zoning Ordinance, §190-16. Subsection 190-16.C. states, “*The uses listed under the major use headings may be interpreted by the Planning Director, after a recommendation from the Planning Commission, to include other uses that have*

54 *similar impacts to listed uses. The listed uses within the Table which are subject*
55 *to interpretation are those which are not in bold type.”*
56

57 Commissioner Hughes asked if the use would be contained on site. Mr. Ewing
58 stated the details of the use are to be determined through the site plan process.
59

60 Commissioner Fischer asked about vehicle maintenance; Mr. Ewing stated that
61 would not be permitted on site under this land use category and all uses must be
62 identified on the site plan.
63

64 Commissioner Boicourt motioned to recommend to the Planning Officer to
65 include taxi services in the list of *General Services* in *The Talbot County Zoning*
66 *Ordinance* Land Use Table Chapter 190 §190-16 provided such uses meet all
67 other code requirements; Commissioner Sullivan seconded the motion. The
68 motion carried unanimously.
69

- 70 c. Still Waters Farm, LLC #L1208—Miles River Road, Easton, MD 21601 (map 24,
71 grid 19, parcels 39, 43, 44 & 210, zoned Rural Conservation), Sean Callahan,
72 Lane Engineering, LLC, Agent.
73

74 Mr. Ewing presented the staff report; he noted the applicant desires to:

- 75 1. Revise the number of lots from 17 to 4,
76 2. Convert the existing Sunnyside Drive from a public road to a private road,
77 and
78 3. Create Still Waters Drive as a private road.
79

80 Staff recommendations include:
81

- 82 1. Address the January 8, 2014 Technical Advisory Committee comments of
83 Planning and Permits, Department of Public Works, Environmental Health
84 Department, Talbot Soil Conservation District, the Environmental Planner and
85 the Critical Area Commission prior to preliminary plat submittal.
86
87 2. Lot four (4) as proposed is less than twenty (20) acres; this requires a lot size
88 waiver.
89

90 Sean Callahan, Lane Engineering and Bruce Armistead, Armistead, Griswold Lee
91 & Rust, and Chuck Benson of Benson Mangold Realty represented the applicant.

92 Mr. Callahan summarized the proposal and the issues that need resolution:

- 93 1. Abandon the small lots combining them into four large lots.
94 2. Determine the best approach to providing egress to the four lots.
95 3. Resolve wildlife issues with U.S. Fish and Wildlife regarding Delmarva
96 Fox Squirrels and Forest Interior Dwelling Species.
97 4. Minimize forest disturbance.
98 5. Obtain wetland permit for the road stream crossing.
99 6. 1:1 mitigation for forest clearing would be sufficient.

7. Expanded buffer requirements due to hydric soils.
8. Street tree requirement.

The Commission discussed the lot configuration, drive location and street tree requirements.

Commissioner Hughes stated the Commission has a consensus on the proposed new road location that goes through the woods with a minimum amount of disturbance, follows the woods and bends around the corner of the woods and goes down the hedgerow of lot four, pending the outcome of the intermittent stream issue. There is a consensus that street tree plantings may be relocated to a more appropriate location on the site.

Commissioner Hughes asked for public or staff comments. Mr. Ewing said that the earlier reference to a 300 foot road buffer should be amended to reference it as a stream buffer with hydric soils.

Commissioner Boicourt moved to grant sketch plan approval for Still Waters LLC, with staff conditions being complied with, along with the consensus of the Planning Commission agreeing with the proposed new road location pending outcome of decisions made by federal and state agencies and the street trees may be relocated to a more suitable location on site. Seconded by Commissioner Spies. The motion carried unanimously.

- d. Barbara Jo Bender #L1192—Matthewstown Road, Easton, MD 21601 (map 26, grid 12 and 18, parcels 69 and 163, zoned Agricultural Conservation), Chris Waters, Waters Professional Land Surveying, agent.

Mr. Ewing presented the staff report for the major revision plat to relocate and enlarge tax parcel 163.

Staff recommendations include:

1. Address the January 8, 2014 Technical Advisory Committee comments prior to preliminary plat submittal.

Mr. Waters explained that new buffer regulations negate the prior approach, so the sewage disposal area must be relocated and the impact of wetlands adjacent to the site's steep slope must be considered.

Commissioner Hughes asked if there was any public comment, none were made. Commissioner Hughes asked for Commission comments. The Commission discussed the driveway configuration. Commissioner Sullivan motioned to approve the sketch major revision plat plan for Barbara Jo Bender's provided staff recommendations are complied with; Commissioner Boicourt seconded. The motion carried unanimously.

e. Comprehensive Water and Sewer Plan Amendment to Connect the Martingham Community to Region II Waste Water Treatment Plant—Ray Clarke, County Engineer.

Ray Clark, Talbot County Engineer, presented the proposed amendment to replace the temporary connection of the Martingham community to the Region II waste water treatment plant with a permanent connection. This would require the reassignment of 40,500 gallons per day (gpd) from the St. Michaels to the Martingham sewer service area.

The Commission discussed connection policies and connecting Martingham to the Region II system and the appropriateness of reassigning capacity from the municipality St. Michaels to the unincorporated community of Martingham, while maintaining an excessive allocation for three rural villages. The Commission determined that such a reassignment would be inconsistent with the comprehensive plan's land use policies that focus new development in the municipalities and limit growth in the villages to preserve their existing character.

After discussion of several alternative approaches the Commission determined that it would be consistent with the comprehensive plan to reassign the surplus allocation of waste water capacity (40,500 gpd) from the Royal Oak, Newcomb and Bellevue service area to the Martingham community. In addition, to address the reduced growth expectations of St. Michaels and to meet water quality objectives a like amount of capacity would be reassigned from the St. Michaels service area to a future allocation for service to existing development in villages currently identified as "water quality strategy areas" through the Tier System. The Commission noted that this approach would provide sufficient treatment capacity to existing lots and provide sewer service for anticipated future demand and assist the County meet TMDL and other water quality objectives.

Commissioner Hughes asked for public comment.

Jeanne Bryan read a paragraph from the 2005 Comprehensive Plan regarding designated growth and primary funding areas. Ms. Bryan stated that the villages are designated priority funding areas (PFAs) and she emphasized that the villages are slated as growth centers. She noted concerns about her lack of knowledge of recent policy changes and the impacts the changes had on her and others' property rights. She asked for more time to review the proposed changes before they become policy as she believes there were errors in the policy changes, specifically the designation of her property as Tier 4. She stated that connecting village growth to sewer systems is more appropriate than on-site septic disposal.

Commissioner Hughes noted the villages are rural village PFAs which are not growth areas and the County's plan is to maintain their character and the

Commission's proposal would provide sufficient treatment capacity to meet the village's future development demand.

Commissioner Boicourt motioned that the Planning Commission find that the proposed Resolution 209, to *the Comprehensive Water and Sewer Plan* as drafted is not consistent with *the Talbot County Comprehensive Plan*. Further, the Commission finds that for the amendment to be consistent it should be amended so that 40,500 capacity be transferred from St. Michaels sewer service area to a reserve allocation for future use within the designated village water quality strategy areas and that simultaneously 40,500 gpd be allocated from Royal Oak, Newcomb and Bellevue to be allocated to the Martingham sewer service area. Further the Commission notes that the Royal Oak, Newcomb and Bellevue sewer service area would have a remaining capacity 17,500 gpd which would be adequate to support expected future growth in the service area. We also request that the County modify the language from Line 152 to 170 in the *Comprehensive Water and Sewer Plan* to reflect the changes in number of expected new equivalent dwelling units in the Royal Oak, Newcomb and Bellevue sewer service area. Commissioner Sullivan seconded the motion. The motion carried unanimously.

5. Discussions Items

a. Critical Area Mapping Project Update and Review

Mary Kay Verdery, Assistant Planning Officer and Mark Cahoon; GIS Manager, Department of Public Works summarized the project and noted that next month staff will present the final critical area maps, for the Commission's review and recommendation to the County Council.

Ms. Verdery reviewed for Commission the revised critical area maps. Areas added were shown in green and those removed were in yellow. Numerous slivers were created which required staff to judge their status. Since Talbot County's zoning corresponds to the critical area boundary, each sliver and change must be properly designated with its critical area category, i.e., Limited Development Area (LDA), Intensely Development Area (IDA), or Resource Conservation Area (RCA), and then zoned accordingly. Ms. Verdery displayed several examples of these conditions. The zoning changes will be made through a comprehensive rezoning.

Commissioner Hughes stated he felt it was the duty of the Attorney General to enforce easements. To that end he suggested that when the County was preparing the Comprehensive Plan that we contact the Attorney General for the proper method to handle properties with multiple development rights and perpetual easements.

Ms. Verdery noted that a grandfathering mechanism may be needed in several cases in terms of lot coverage limitations. These issues should be explored with

the Critical Area Commission and a text amendment would be needed. Also the map changes will not impact growth allocation potential as the Critical Area Commission adopted regulations basing the Growth Allocation acreage limitation to the original RCA acreage.

b. Minor Site Plan review maximum threshold of 300 square feet for a minor plan

Mr. Ewing stated that Staff has discussed increasing the site plan threshold. It appears that this limit is too low and should be revised upward. The Commission agreed and determined that 1,000 square feet would be a more appropriate upper bound.

c. Land Preservation Program Certification Report

Martin Sokolich presented an update of the Maryland Agricultural Land Preservation Foundation (MALPF) program and summarized the semi-annual recertification report. As a certified County, Talbot uses its share of the agricultural transfer tax as match for the state funding of preservation easements. The certification report provides key parameters about land preserved and developed in the County's agricultural priority preservation area.

Limited funds have been available from the state and little has been received from the transfer tax. However, the County has been successful in preserving some parcels through a secondary round of state easement purchases. Last week three secondary offers were made to Talbot farm owners.

Staff made application for the next easement round, and they will be accepting applications this spring and submit them to the state by July 1st.

d. Fred Israel Subdivision—Cedar Point Road

Mr. Callahan appeared with applicant Fred Israel and Mike Kopen to discuss proposed project which is located on a 133 acre farm on Edge Creek, most of which is in the critical area. Mr. Callahan reviewed the site parameters and asked for direction from the Commission on lot layout. Mr. Ewing noted that wetlands are yet to be delineated. The Commission stated that they may be willing to grant a lot size waiver, but this would be a function of the final design and the agency comments submitted. If all results are favorable, the Commission could accept the proposed layout.

e. Cottage Industry Legislation

Commissioner Hughes stated his concerns that the proposed legislation would result in cottage industries being permitted uses in inappropriate locations disrupting the neighbors' peaceful enjoyment of their property. He believed the special exception process would continue to be the most appropriate method to

review cottage industries. Commissioner Hughes noted that to receive a variance all warrants must be met. For example, to get a variance for the lot size a unique condition must exist which is not of the applicant's making, some unusual physical lot characteristic must exist. That is, a variance is not granted simply by requesting it.

Mr. KupperSmith stated the site plan review would afford the Planning Commission discretion to disapprove an unsuitable location that would materially and adversely affect neighbors. A public approval process and a biannual inspection of the property would be required.

Commissioner Hughes stated that his understanding was that a special exception placed a more significant burden of proof on the applicant than the proposed process. Commissioner Hughes sought assurance that the Planning Commissioner under the major site plan approval process has the same ability to disapprove the application when circumstances warrant.

Mr. KupperSmith stated that with the special exception there is a certain presumption of validity so that it is essentially a permitted use if you meet the conditions set forth in Section 190-39 that describe a cottage industry. The difference seems to be that when the Board of Appeals is considering the special exception criteria some of those carry over to the factors that are covered in the Planning Directors report. Generally speaking if there an adverse affect on surrounding development, the Planning Commission must consider adverse impacts, e.g., traffic and noise and would have the authority to approve or disapprove the application with conditions.

6. Staff Matters

7. WorkSessions

a. Blue Ribbon Critical Area Program

8. Commission Matters

9. Adjournment—Commissioner Hughes adjourned the meeting at 3:41 p.m.